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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,073	10/11/2000	David Traynor	2043.165US1	5507

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EXAMINER

COLBERT, ELLA

ART UNIT	PAPER NUMBER
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3694

NOTIFICATION DATE	DELIVERY MODE
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05/08/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWK.COM

Office Action Summary	Application No.	Applicant(s)	
	09/686,073	TRAYNOR ET AL.	
	Examiner	Art Unit	
	Ella Colbert	3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,8-15 and 32-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,8-15 and 32-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/30/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-4, 8-15, and 32-38 are pending. Claims 1, 10, 11, 15, and 33-38 have been amended in this communication filed 1/30/07 entered as Response After Non-Final Action, Request for Extension of Time, New or Additional Drawing, and IDS.
2. The Election By Original Presentation for claims 35-38 is hereby withdrawn in view of Applicants' amendments and convincing arguments.
3. The Claim Objections for claims 1, 10-11, 15, and 23 have been overcome by Applicants' amendment to claims 10-11, 15 and 23 and is hereby withdrawn.
4. The Drawing Objections for Figures 1-10 have been reviewed and accepted.
5. The 35 USC 112 First Paragraph Rejection for claims 1, 11, and 15 is hereby withdrawn in view of Applicants' amendments and convincing arguments.
6. The 35 USC 112 Second Paragraph rejection for claim 1 has been overcome by Applicants' explanation that claim 1 is a method claim and is hereby withdrawn.
7. The 35 USC 101 rejection of claim 1 is withdrawn in view of Applicants' explanation of the claim.

Abstract

8. The abstract of the disclosure is objected to because the abstract filed 08/02/04 is not on a separate sheet of paper.

Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual

Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

Correction is required. See MPEP § 608.01(b).

Specification

9. The specification is replete with grammatical errors. Examples of some of the grammatical errors in the specification are: Page 1, reciting “and setting a particular price can also allows some individuals ...”. These lines should recite “and setting a particular price also allows some individuals ...”. Page 2, line 26 reciting “Converting can derives the feedback value from quantities of the item sold, from”. This line should recite converting derives the feedback value from quantities of the item sold, from”. Page 3, the last line recites “choices as a schedule ..., with the step of adjusting adjusting”. The “adjusting” is redundant. Page 4, line 2 has a similar problem with “adjusting”. Page 4, line 23 “recites “identified in the item identification area. The terminal can further including a feedback”. This line should recite “identified in the item indication area. The terminal further including a feedback”. These are a few of the grammatical errors in the Specification. Applicants’ are respectfully requested to review the Specification for other grammatical errors.

Correction is required.

Claim Objections

10. Claims 35-38 are objected to because of the following informalities: Claims 35-38 are not in agreement with claims 1, 11, and 15. Claims 1, 11, and 15 recited “price choices” and “price choice”. Claims 35-38 recite “sales price level” and “sales price levels” and “sales price point”. These claims either need to recite “price choices” and

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"price choice" or "sales price level" and "sales price levels" or "sales price point".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

11. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

12. Claims 35-38 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The Specification recites "sales price point" or "sales price points". It is unclear what Applicants' mean by "sales price levels" or "sales price level" because these recitations were not found in Applicants' Specification or interpreted as being in Applicants' drawings and in claims 1-4, 8-15, and 32-34.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

15. Claims 1-4, 8, 12, 13, 32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,890,138) Godin et al, hereafter Godin in view of Non-Patent Reference Amazon.com, hereafter Amazon.

Claims 1 and 15. Godin discloses, A sales activity feedback method, including: Communicating, via a network information to a user interface, the information pertaining to a plurality of price choices for an item offered in a network based sales system(col. 3, lines 15-48 and fig. 1 (6 & 16)).

Godin failed to disclose, generating a feedback indication for the item, at each of the plurality of price choices, using supply and sales level information generated from the actions of other users of the network based sales system. Amazon discloses , generating a feedback indication for the item, at each of the plurality of price choices,

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using supply and sales level information generated from the actions of other users of the network based sales system (pages 1-5). Godin discloses, communicating, via the network, the feedback indication to the user interface and this claim limitation is obvious in Amazon. It would have been obvious to one having ordinary skill in the art to modify in Godin as taught by Amazon to allow Godin to give either positive or negative feedback about the price of an item.

Claims 2 and 32. Godin failed to disclose, The method of claim 1 wherein the conveying includes displaying the feedback indication in the sales screen. Amazon discloses, wherein the conveying includes displaying the feedback indication in the sales screen (page 1). It would have been obvious to one having ordinary skill in the art to modify Godin as taught by Amazon to allow Godin to give either positive or negative feedback about the price of an item.

Claims 3 and 12. Godin discloses, The method of claim 2 wherein the conveying includes displaying the feedback indication in the form of one of a series of different pictorial icons (col. 5, line 8- col.8, line 55 and Fig.'s 7-12).

Claims 4 and 33. Godin discloses, The method of claim 1 wherein the feedback indication is associated with one or more factors selected from a group including quantities of the item sold, quantities of the item reserved at future price points, quantities of the item for which a reminder request has been entered, and the time duration incurred to sell the item (col. 2, lines 33-47 and col. 5, lines 16-40). Amazon also discloses price points and quantities of an item.

Claims 8 and 13. Godin discloses, The method of claim 1 wherein the converting is performed continuously in near real time (col. 3, lines 65-66 and col. 7, lines 45-55).

14. Claims 9, 10, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,890,138) Godin et al, hereafter Godin in view of Non-Patent Reference Amazon.com, hereafter Amazon and further in view of (US 5,835,896) Fisher et al, hereafter Fishter.

Claims 9 and 14. Godin and Amazon failed to disclose, The method of claim 1 wherein the presenting includes presenting time-separated price choices from a falling-price schedule. Fisher discloses, The method of claim 1 wherein the presenting includes presenting time-separated price choices from a falling-price schedule (col. 7, lines 42-65 and Fig. 2). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Godin and Amazon as taught by Fisher to allow Godin and Amazon to know when to purchase the item of interest at the lowest price.

Claim 10. Godin and Amazon failed to disclose, The method of claim 1 wherein the communication of information includes communicating information causing the user interface to display a present price, at least one future price, a present purchase control button next to the present price and a future purchase control button next to the at least one future price. Fisher discloses, The method of claim 1 wherein the communication of information includes communicating information causing the user interface to display a present price, at least one future price, a present purchase control button next to the present price and a future purchase control button next to the at least one future price

(col. 7, lines 42-65 and Fig. 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Godin and Amazon as taught by Fisher for a user to have the capability to decide on which price the user wants to purchase the item.

15. Claims 11 and 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,835,896) Fisher et al, hereafter Fisher in view of Amazon.com, hereafter Amazon.

Claim 11. Fisher discloses, A user interface of a network based sales system, the user interface to communicate with a sales server via a network, the user interface including: an item identification area responsive to the sales server via the network and to display information pertaining to a plurality of price choices of a selected item (col. 7, lines 42-65 and Fig. 2); and a plurality of price choice selection controls for the selected item displayed in the item identification area to provide communication of a user selection to the sales server via the network, the plurality of price choice selection controls selectively corresponding to the plurality of price choices (col. 7, lines 41-49 and Fig's 2 and 3). Fisher failed to disclose, a feedback indication area responsive to the sales server via the network the feedback indication area operative to display a feedback indication associated with the plurality of price choices pertaining to the selected item, the plurality of price choices being derived from a quantity of the item available and sales of the item within the network based sales system. Amazon discloses, a feedback indication area responsive to the sales server via the network the feedback indication

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area operative to display a feedback indication associated with the plurality of price choices pertaining to the selected item, the plurality of price choices being derived from a quantity of the item available and sales of the item within the network based sales system (Pages 1-6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Fisher as taught by Amazon to allow Fisher to give either positive or negative feedback about the price of an item.

Claim 34. Fisher discloses, user interface of claim 11, wherein at least one attribute of a price choice selection control of the plurality of price choice selection controls is operative to change during an offering of an item identified in the item identification area (col. 7, lines 8-49).

Claim 35. Fisher discloses, A method including: generating sales information for an item at each of a plurality of sales price levels (col. 7, lines 41-49 and Fig. 2); and communicating the plurality of sales price levels in association with the generated sales information to a user (col. 8, lines 15-29).

Claim 36. Fisher and Amazon failed to disclose, The method of claim 35, further including: receiving from the user a request to alert the user when the item reaches a sales price point selected by the user; and communicating a reminder message to the user when the item reaches a sales price point selected by the user. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Fisher to include these steps because this would allow Fisher to know when the price for the item reaches a price the user is willing to pay for the item.

Claim 37. This dependent claim is rejected for the similar rationale as given above for claims 35 and 36.

Claim 38. This dependent claim is rejected for the similar rationale as given above for claims 35-37.

Inquiries

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

April 30, 2007


ELLA COLBERT
PRIMARY EXAMINER